

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

BASIR MATEEN RAZZAK,	)	
	)	
Petitioner,	)	
	)	
v.	)	1:16CV1391
	)	
JOHN A. HERRING, et al.,	)	
	)	
Respondent(s).	)	

**ORDER**

The Recommendation of the United States Magistrate Judge was filed with the Court in accordance with 28 U.S.C. § 636(b) and, on December 15, 2016, was served on the parties in this action. (ECF Nos. 2, 3.)<sup>1</sup> Plaintiff filed several documents after entry of the Recommendation. (See ECF No. 5.) The Court has appropriately reviewed the Magistrate Judge's Recommendation and, in light of Plaintiff's post-Recommendation filing, the Court, out of an abundance of caution, has made a *de novo* determination in accord with the Magistrate Judge's Recommendation.<sup>2</sup> The Court therefore adopts the Magistrate Judge's Recommendation.

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<sup>1</sup> The Recommendation was returned to the Court with a handwritten note "Return to sender No contract" on the outside of the envelope. (ECF No. 4-1 at 1.) As a result, the Court mailed the Recommendation to Petitioner a second time. (ECF No. 6.)

<sup>2</sup> Section 636(b) provides that a federal district judge "shall make a *de novo* determination of those portions of the [magistrate judge's] report or specified proposed findings or recommendations to which objection is made." 28 U.S.C. § 636(b). Here, Petitioner's post-Recommendation filing does not provide any specific objections to "findings or recommendations" in the Magistrate Judge's Recommendation. (See ECF No. 5.) Under these circumstances, the Court need not conduct a *de novo* review of the Recommendation. Littlejohn v. Qaddifi, Civ. Action No. 7:10-1122-RBH, 2010 WL 2026673, at \*1 (D.S.C. May 20, 2010) (unpublished) (concluding that "[t]he district court need

IT IS THEREFORE ORDERED that this action is construed as a habeas petition under 28 U.S.C. § 2254 and dismissed *sua sponte* without prejudice to Petitioner filing a new petition which corrects the defects of the current Petition. The new petition must be accompanied by either the five dollar filing fee or a current application to proceed *in forma pauperis*. A Judgment dismissing this action will be entered contemporaneously with this Order.

This, the 9<sup>th</sup> day of February, 2017.

/s/ Loretta C. Biggs  
United States District Judge

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not conduct a *de novo* review when a party makes only general and conclusory objections that do not direct the court to a specific error in the [m]agistrate [j]udge's proposed findings and recommendations" (citing Orpiano v. Johnson, 687 F.2d 44, 47–48 (4th Cir. 1982))). Nevertheless, the Court has conducted such a *de novo* review and adopts the Magistrate Judge's Recommendation. The Court further notes that the post-Recommendation filing does not correct the defects identified in the Recommendation. (See ECF 2 at 1-2.) Accordingly, the Court will dismiss this action notwithstanding the post-Recommendation filing.